

The legislative clerk proceeded to call the roll.

Mr. INOUE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. INOUE. Mr. President, I ask for the yeas and nays on this measure.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to the conference report to accompany H.R. 4040. The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from New York (Mrs. CLINTON), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Minnesota (Ms. KLOBUCHAR), the Senator from Illinois (Mr. OBAMA) are necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from Minnesota (Mr. COLEMAN), the Senator from New Mexico (Mr. DOMENICI), the Senator from Nebraska (Mr. HAGEL), and the Senator from Arizona (Mr. MCCAIN).

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 89, nays 3, as follows:

[Rollcall Vote No. 193 Leg.]

#### YEAS—89

Akaka	Dorgan	Murkowski
Alexander	Durbin	Murray
Allard	Ensign	Nelson (FL)
Barrasso	Enzi	Nelson (NE)
Baucus	Feingold	Pryor
Bayh	Feinstein	Reed
Bennett	Graham	Reid
Biden	Grassley	Roberts
Bingaman	Gregg	Rockefeller
Bond	Harkin	Salazar
Boxer	Hatch	Sanders
Brown	Hutchison	Schumer
Brownback	Inhofe	Sessions
Bunning	Inouye	Shelby
Burr	Isakson	Smith
Byrd	Johnson	Snowe
Cantwell	Kerry	Specter
Cardin	Kohl	Stabenow
Carper	Landrieu	Stevens
Casey	Lautenberg	Sununu
Chambliss	Leahy	Tester
Cochran	Levin	Thune
Collins	Lieberman	Vitter
Conrad	Lincoln	Voinovich
Corker	Lugar	Warner
Cornyn	Martinez	Webb
Craig	McCaskill	Whitehouse
Crapo	McConnell	Wicker
Dodd	Menendez	Wyden
Dole	Mikulski	

#### NAYS—3

Coburn	DeMint	Kyl
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#### NOT VOTING—8

Clinton	Hagel	McCain
Coleman	Kennedy	Obama
Domenici	Klobuchar	

The conference report was agreed to.

Mr. DORGAN. Mr. President, I move to reconsider the vote by which the conference report was agreed to, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

#### HIGHER EDUCATION OPPORTUNITY ACT—CONFERENCE REPORT—Continued

The PRESIDING OFFICER. Under the previous order, there will now be 2 minutes of debate equally divided.

Ms. MIKULSKI. Mr. President, we are about to vote on the Higher Education Act. It is an excellent bipartisan bill, led by the architect of the bill, Senator TED KENNEDY, working with Senator MIKE ENZI.

We bring to the Senate a bill that expands opportunity, expands the Pell grants, simplifies the process, gets rid of cronyism in lending, and at the same time deals with important shortages with teachers and with nurses.

I think when you review the whole content, you will know that tonight this Senate can pass a great bill. And we say to our friend, Senator KENNEDY, who is watching this vote, "This one's for you, TED."

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. ENZI. Mr. President, I just ask my colleagues to vote for this bill, and I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Ms. SNOWE (when her name was called). Present.

Mr. DURBIN. I announce that the Senator from New York (Mrs. CLINTON), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Minnesota (Ms. KLOBUCHAR), and the Senator from Illinois (Mr. OBAMA) are necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from Minnesota (Mr. COLEMAN), the Senator from New Mexico (Mr. DOMENICI), the Senator from Nebraska (Mr. HAGEL), and the Senator from Arizona (Mr. MCCAIN).

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 83, nays 8, as follows:

[Rollcall Vote No. 194 Leg.]

#### YEAS—83

Akaka	Conrad	Landrieu
Allard	Cornyn	Lautenberg
Barrasso	Craig	Leahy
Baucus	Crapo	Levin
Bayh	Dodd	Lieberman
Bennett	Dole	Lincoln
Biden	Dorgan	Lugar
Bingaman	Durbin	Martinez
Bond	Ensign	McCaskill
Boxer	Enzi	McConnell
Brown	Feingold	Menendez
Brownback	Feinstein	Mikulski
Bunning	Graham	Murkowski
Burr	Grassley	Murray
Byrd	Gregg	Nelson (FL)
Cantwell	Harkin	Nelson (NE)
Cardin	Hatch	Pryor
Carper	Hutchison	Reed
Casey	Inouye	Reid
Chambliss	Johnson	Roberts
Cochran	Kerry	Rockefeller
Collins	Kohl	Salazar

Sanders	Stevens	Warner
Schumer	Sununu	Webb
Shelby	Tester	Whitehouse
Smith	Thune	Wicker
Specter	Vitter	Wyden
Stabenow	Voinovich	

#### NAYS—8

Alexander	DeMint	Kyl
Coburn	Inhofe	Sessions
Corker	Isakson	

#### ANSWERED "PRESENT"—1

Snowe

#### NOT VOTING—8

Clinton	Hagel	McCain
Coleman	Kennedy	Obama
Domenici	Klobuchar	

The conference report was agreed to.

Mr. REID. Mr. President, I move to reconsider the vote.

Ms. MIKULSKI. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

#### NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2008—MOTION TO PROCEED

Mr. REID. Mr. President, the Republican leader and I have had a number of conversations today. We know the caucuses on his side and my side are tired. We have had a very difficult few weeks. We have a few more things to do this work period. That work period can be a matter of hours or it could be the next day.

Most would like to finish it tonight. If we could move up the cloture vote on the motion to proceed to the Defense authorization bill, we could do that tonight. The issue, it turns out now, is how long that debate would take. On our side we need 10 minutes. Senator LEVIN wanted a half-hour. He cut that back to 10 minutes.

If we could have some agreement on the other side that we could take 10, 5 minutes, whatever is appropriate, we could finish that tonight and basically finish the work of the Senate for this work period and come back, renew our struggles in September.

I ask unanimous consent that we move to the Defense authorization bill, that the motion to invoke cloture on that that was set for the morning, that we would do that following 10 minutes of debate controlled by the Senator from Michigan. The chairman of the committee would control 10 minutes, and whomever the Republican leader designates on his side would control whatever time they feel appropriate.

The PRESIDING OFFICER. The Republican leader.

Mr. MCCONNELL. Mr. President, I would say to my friend, the majority leader, we are prepared to vote right now.

A number of Members are prepared to have a vote immediately. I think we all understand what we are voting on. I am not sure many of our Members think any further debate about the whole issue of whether to go to the Defense bill at this particular time would be enlightened by any additional debate.

We have a number of Members who have plans who know how to vote and would be happy to vote.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, this bill is worth spending 10 minutes on tonight. This is the Defense authorization bill. For heavens' sake, can we not set aside the frustrations we all have on this other issue and at least support our troops and come together and unify behind our troops?

Can we not at least set a time to take up the Defense authorization bill, which is critically important? We cannot do this on the appropriations bill. It would be legislating on an appropriations bill. This is a pay increase, special benefits, the BRAC implementation. This has to do with whether families are going to get support, whether we are going to hire nurses. This is the men and women in uniform who are in harm's way.

The suggestion is, we cannot spend 10 minutes to debate on whether to take up an authorization bill. We have never not passed an authorization bill. By law, we must pass an authorization bill or else all the authorities which are critically important to the men and women in uniform are not going to be passed.

This cannot just be another vote, another vote which divides us Republicans from Democrats. We have to unify behind this bill. Senator WARNER and I and the members of the Armed Services Committee have worked month after month after month to get this bill up. This bill has been on the calendar for 3 months.

If we do not decide to take up this bill or have a place fixed to take up this bill when we get back, we are going to have 3 weeks of an ongoing debate on a critically important subject, I agree, energy, but then we will never get to the men and women in uniform.

This is not our bill. This is their bill. Let's vote to take it up and set a place, a firm place, where we can protect the men and women in uniform. They are overstretched. The equipment is running out. It is worn out. We owe them this. Set aside these differences for a few minutes, just a few minutes, and agree to take up this bill.

If we cannot take it up now, fix a time when we can take it up. That is my plea. I know Senator WARNER will join in this plea. This cannot be a partisan vote.

The PRESIDING OFFICER. The majority leader.

Mr. REID. I do not know if the Senator took 10 minutes, but I think we heard the speech.

Mr. LEVIN. May Senator WARNER be recognized for a few minutes?

The PRESIDING OFFICER. The Republican leader.

Mr. MCCONNELL. Mr. President, I think the majority leader made a good point. I think we have heard the speech. Of course, we will not be passing the bill before recess. This vote will

be about whether we stay on the No. 1 subject in America and whether we then do the Defense bill.

It appears to me as if we have had the suggestion, and I say to my good friend, the majority leader, why do we not now have the vote?

Mr. REID. Mr. President, I think that is appropriate, and I ask consent from everyone here that Senator WARNER have a few minutes.

Mr. WARNER. Mr. President, I thank the distinguished leader. I do hope I can say one word. To my leadership, I have explained to you I will soon conclude 30 years in this Chamber.

Having served with 264 Senators in that period of time, I say thanks to each and every one of them. But in that period, I think half my time has been devoted to issues relating to national security and the Armed Services. I checked the records of the committee. We have had 42 consecutive bills authorizing funds for the armed services of the United States. This will be the 30th of those bills that I have participated in, in bringing to the floor and, hopefully, getting a strong endorsement of this body.

I fully recognize the issues my colleagues have foremost in their mind at this moment. Not a one of them is against our national defense, not a one of them by their votes now could be challenged as to their patriotism and devotion to the men and women of the Armed Forces of this country.

But I will vote to go forth now, in an effort to support the cloture motion.

Mr. MCCONNELL. Mr. President, if I may, our good friend, Senator WARNER, has, of course, been a leader on this issue throughout his tenure in the Senate, and we respect his views. He has been a strong supporter of a strong national defense.

But the issue before us tonight is whether we are going to continue to try to solve the No. 1 issue in the country, and that is the price of gas at the pump. It is not whether we will do a Defense authorization bill.

The ranking member of the Armed Services Committee shares my view, that the first thing we ought to do is stay on the subject of energy, stay on the subject of getting the price of gas at the pump down, and then do the Defense authorization bill.

I am authorized to speak on behalf of the ranking member of the Armed Services Committee, our colleague, Senator McCain, who shares my view that at this particular moment, the most important issue related to the national security of our country is to stay on the subject of energy, finish the job, and then, as Senator WARNER and Senator LEVIN have suggested, do the job of passing the Defense authorization bill.

Mr. REID. Mr. President, there is a unanimous consent pending.

The PRESIDING OFFICER. Is there objection to holding the cloture vote at this time?

Without objection, it is so ordered.

## CLOTURE MOTION

Pursuant to rule XXII, the clerk will report the motion to invoke cloture.

The assistant legislative clerk read as follows:

## CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the motion to proceed to S. 3001, the National Defense Authorization Act for Fiscal Year 2009.

Carl Levin, Christopher J. Dodd, E. Benjamin Nelson, John F. Kerry, Claire McCaskill, Joseph R. Biden, Jr., Bill Nelson, Blanche L. Lincoln, Richard Durbin, Daniel K. Akaka, Robert Menendez, Kent Conrad, Sherrod Brown, Jack Reed, Jim Webb, Charles E. Schumer, and Harry Reid.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call is waived.

The question is, Is it the sense of the Senate that the debate on the motion to proceed to S. 3001, an original bill to authorize appropriations for fiscal year 2009 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military strengths for such fiscal year, and for other purposes, shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from New York (Mrs. CLINTON), the Senator from Massachusetts (Mr. KERRY), the Senator from Minnesota (Ms. KLOBUCHAR), and the Senator from Illinois (Mr. OBAMA) are necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from Kentucky (Mr. BUNNING), the Senator from Minnesota (Mr. COLEMAN), the Senator from New Mexico (Mr. DOMENICI), the Senator from Nebraska (Mr. HAGEL), the Senator from Texas (Mrs. HUTCHISON), and the Senator from Arizona (Mr. MCCAIN).

Further, if present and voting, the Senator from Kentucky (Mr. BUNNING) would have voted "nay."

The PRESIDING OFFICER (Mr. TESTER). Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 51, nays 39, as follows:

[Rollcall Vote No. 195 Leg.]

## YEAS—51

Akaka	Durbin	Murray
Baucus	Feingold	Nelson (FL)
Bayh	Feinstein	Nelson (NE)
Biden	Harkin	Pryor
Bingaman	Inouye	Reed
Boxer	Johnson	Rockefeller
Brown	Kerry	Salazar
Byrd	Kohl	Sanders
Cantwell	Landrieu	Schumer
Cardin	Lautenberg	Smith
Carper	Leahy	Snowe
Casey	Levin	Stabenow
Collins	Lieberman	Tester
Conrad	Lincoln	Warner
Dodd	McCaskill	Webb
Dole	Menendez	Whitehouse
Dorgan	Mikulski	Wyden

## NAYS—39

Alexander	Crapo	McConnell
Allard	DeMint	Murkowski
Barrasso	Ensign	Reid
Bennett	Enzi	Roberts
Bond	Graham	Sessions
Brownback	Grassley	Shelby
Burr	Gregg	Specter
Chambliss	Hatch	Stevens
Coburn	Inhofe	Sununu
Cochran	Isakson	Thune
Corker	Kyl	Vitter
Cornyn	Lugar	Voinovich
Craig	Martinez	Wicker

## NOT VOTING—10

Bunning	Hagel	McCain
Clinton	Hutchison	Obama
Coleman	Kennedy	
Domenici	Klobuchar	

The PRESIDING OFFICER. On this vote, the yeas are 51, the nays are 39. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

Mr. REID. Mr. President, I enter a motion to reconsider.

The PRESIDING OFFICER. The motion is entered.

The majority leader.

# CONDITIONAL ADJOURNMENT OR RECESS OF THE HOUSE OF REPRESENTATIVES AND THE SENATE

Mr. REID. Mr. President, I ask unanimous consent that the Senate now proceed to H. Con. Res. 398, a conditional adjournment resolution, and that the Senate vote immediately on adoption of H. Con. Res. 398; that if the adjournment resolution is agreed to, then it be in order for the Senate to convene for pro forma sessions on the following days: Tuesday, August 5; Friday, August 8; Tuesday, August 12; Friday, August 15; Tuesday, August 19; Friday, August 22; Tuesday, August 26; Friday, August 29; Tuesday, September 2; and Friday, September 5; that at the close of each pro forma session, the Senate would stand in recess, except for the pro forma session of Friday, September 5, at which time the Senate would adjourn; and that no business be conducted during the pro forma sessions.

Mr. President, I also note to all Members, we will likely have a late vote on the day we get back at 5:30—a 5:30 vote.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The clerk will report the concurrent resolution by title.

The legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 398) providing for a conditional adjournment of the House of Representatives and a conditional recess or adjournment of the Senate.

The PRESIDING OFFICER. The question is on agreeing to the concurrent resolution.

Mr. LEVIN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from New York (Mrs. CLINTON), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Minnesota (Ms. KLOBUCHAR), the Senator from Illinois (Mr. OBAMA) are necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from Missouri (Mr. BOND), the Senator from Kentucky (Mr. BUNNING), the Senator from Minnesota (Mr. COLEMAN), the Senator from New Mexico (Mr. DOMENICI), the Senator from Nebraska (Mr. HAGEL), the Senator from Texas (Mrs. HUTCHISON), the Senator from Oklahoma (Mr. INHOFE), and the Senator from Arizona (Mr. MCCAIN).

Further, if present and voting, the Senator from Kentucky (Mr. BUNNING) would have voted "nay."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 48, nays 40, as follows:

[Rollcall Vote No. 196 Leg.]

## YEAS—48

Akaka	Feingold	Mikulski
Baucus	Feinstein	Murray
Bayh	Harkin	Nelson (FL)
Biden	Inouye	Nelson (NE)
Bingaman	Johnson	Pryor
Boxer	Kerry	Reed
Brown	Kohl	Reid
Byrd	Landrieu	Rockefeller
Cantwell	Lautenberg	Salazar
Cardin	Leahy	Sanders
Carper	Levin	Schumer
Casey	Lieberman	Stabenow
Conrad	Lincoln	Tester
Dodd	Lugar	Webb
Dorgan	McCaskill	Whitehouse
Durbin	Menendez	Wyden

## NAYS—40

Alexander	DeMint	Sessions
Allard	Dole	Shelby
Barrasso	Ensign	Smith
Bennett	Enzi	Snowe
Brownback	Graham	Specter
Burr	Grassley	Stevens
Chambliss	Gregg	Sununu
Coburn	Hatch	Thune
Cochran	Isakson	Vitter
Collins	Kyl	Voinovich
Corker	Martinez	Warner
Cornyn	McConnell	Wicker
Craig	Murkowski	
Crapo	Roberts	

## NOT VOTING—12

Bond	Domenici	Kennedy
Bunning	Hagel	Klobuchar
Clinton	Hutchison	McCain
Coleman	Inhofe	Obama

The concurrent resolution (H. Con. Res. 398) was agreed to, as follows:

## H. CON. RES. 398

*Resolved by the House of Representatives (the Senate concurring), That when the House adjourns on the legislative day of Thursday, July 31, 2008, Friday, August 1, 2008, or Saturday, August 2, 2008, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand adjourned until 2 p.m. on Monday, September 8, 2008, or until the time of any reassembly pursuant to section 2 of this concurrent resolution, whichever occurs first; and that when the Senate recesses or adjourns on any day from Friday, August 1, 2008, through Friday, September 5, 2008, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand re-*

cessed or adjourned until noon on Monday, September 8, 2008, or such other time on that day as may be specified in the motion to recess or adjourn, or until the time of any reassembly pursuant to section 2 of this concurrent resolution, whichever occurs first.

SEC. 2. The Speaker of the House and the Majority Leader of the Senate, or their respective designees, acting jointly after consultation with the Minority Leader of the House and the Minority Leader of the Senate, shall notify the Members of the House and the Senate, respectively, to reassemble at such place and time as they may designate if, in their opinion, the public interest shall warrant it.

Mr. REID. Mr. President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

## ORDER OF PROCEDURE

Mr. GRASSLEY. Mr. President, before I speak, I have been asked to propound a unanimous consent request on speaking orders: 4 minutes for Senator GRASSLEY, 4 minutes for Senator COBURN, and whatever time Senator HARKIN would consume.

The PRESIDING OFFICER. Without objection, it is so ordered.

## MIDWESTERN FLOOD TAX RELIEF

Mr. GRASSLEY. Mr. President, I rise for the purpose of a unanimous consent request for the Midwestern flood tax relief bill sponsored by the Senators of several Midwestern States, including Senator HARKIN of my State, Senator DURBIN, Senator OBAMA of Illinois, and other midwestern Senators.

I rise to seek fairness and equity for people in the Midwest who have been hurt by floods, and I would say fairness and equity as measured by how Congress responded to the natural disaster of Katrina, New Orleans, et cetera.

I remember back in September of 2005, after that terrible catastrophe of August 29, what happened in New Orleans. Within the week after we were in session, after Labor Day, we had appropriated \$60 billion. Within 3 weeks after that—I was chairman of the Finance Committee—we voted out of committee a tax equity bill that changed provisions of the Tax Code to encourage employers and businesses and people to stay there and weather it out.

What we did, we did without asking any questions. And now we seek the same tax relief for the States of the Midwest that have had the same type of catastrophe happen to them. I would measure catastrophe by a 500-year flood in the city of Cedar Rapids, IA, which won't be the same as it was prior to the flood.

So we have entered this legislation for consideration. We have worked it out with a lot of people who were involved in it. We worked closely with Senator BAUCUS's staff, with the staff of Ways and Means, trying to satisfy